

(a) A lease executed by the Indian landowners and the lessee that meets the requirements of this part;

(b) For tribal land, a tribal authorization for the lease and, if applicable, meeting the requirements of §§ 162.549(a), 162.555(b), and 162.557(a), or a separate signed certification meeting the requirements of §§ 162.555(b) and 162.557(a));

(c) A valuation, if required under § 162.549 or § 162.550;

(d) Proof of insurance, if required under § 162.562;

(e) A performance bond or other security, if required under § 162.559;

(f) Statement from the appropriate tribal authority that the proposed use is in conformance with applicable tribal law, if required by the tribe;

(g) Environmental and archeological reports, surveys, and site assessments as needed to facilitate compliance with applicable Federal and tribal environmental and land use requirements, including any documentation prepared under § 162.027(b);

(h) A resource development plan that describes the type and location of any permanent improvements the lessee plans to install and a schedule showing the tentative commencement and completion dates for those improvements;

(i) A restoration and reclamation plan (and any subsequent modifications to the plan);

(j) Where the lessee is not an entity owned and operated by the tribe, documents that demonstrate the technical capability of the lessee or lessee's agent to construct, operate, maintain, and terminate the proposed project and the lessee's ability to successfully design, construct, or obtain the funding for a project similar to the proposed project, if appropriate;

(k) A legal description of the land under § 162.547;

(l) If the lease is being approved under 25 U.S.C. 415, information to assist us in our evaluation of the factors in 25 U.S.C. 415(a); and

(m) If the lessee is a corporation, limited liability company, partnership, joint venture, or other legal entity, except a tribal entity, information such as organizational documents, certificates, filing records, and resolutions, that demonstrates that:

(1) The representative has authority to execute a lease;

(2) The lease will be enforceable against the lessee; and

(3) The legal entity is in good standing and authorized to conduct business in the jurisdiction where the land is located.

§ 162.564 Will BIA review a proposed WSR lease before or during preparation of the NEPA review documentation?

Upon request of the Indian landowners, we will review the proposed WSR lease after negotiation by the parties, before or during preparation of the NEPA review documentation and any valuation. Within 60 days of receiving the proposed lease, we will provide an acknowledgement of the terms of the lease and identify any provisions that, based on this acknowledgment review, would justify disapproval of the lease, pending results of the NEPA review and any valuation.

§ 162.565 What is the approval process for a WSR lease?

(a) Before we approve a WSR lease, we must determine that the lease is in the best interest of the Indian landowners. In making that determination, we will:

(1) Review the lease and supporting documents;

(2) Identify potential environmental impacts and ensure compliance with all applicable environmental laws, land use laws, and ordinances;

(3) If the lease is being approved under 25 U.S.C. 415, assure ourselves that adequate consideration has been given to the factors in 25 U.S.C. 415(a); and

(4) Require any lease modifications or mitigation measures necessary to satisfy any requirements including any other Federal or tribal land use requirements.

(b) Upon receiving a WSR lease package, we will promptly notify the parties whether the package is or is not complete. A complete package includes all the information and supporting documents required under this subpart, including but not limited to, NEPA review documentation and valuation documentation, where applicable.

§ 162.566

(1) If the WSR lease package is not complete, our letter will identify the missing information or documents required for a complete package. If we do not respond to the submission of a WSR lease package, the parties may take action under § 162.588.

(2) If the WSR lease package is complete, we will notify the parties of the date of receipt. Within 60 days of the receipt date, we will approve or disapprove the lease, return the package for revision, or inform the parties in writing that we need additional review time. If we inform the parties in writing that we need additional time, then:

(i) Our letter informing the parties that we need additional review time must identify our initial concerns and invite the parties to respond within 15 days of the date of the letter; and

(ii) We have 30 days from sending the letter informing the parties that we need additional time to approve or disapprove the lease.

(c) If we do not meet the deadlines in this section, then the parties may take appropriate action under § 162.588.

(d) We will provide any lease approval or disapproval and the basis for the determination, along with notification of any appeal rights under part 2 of this chapter, in writing to the parties to the lease.

(e) We will provide approved WSR leases on tribal land to the lessee and provide a copy to the tribe. We will provide approved WSR leases on individually owned Indian land to the lessee, and make copies available to the Indian landowners upon written request.

§ 162.566 How will BIA decide whether to approve a WSR lease?

(a) We will approve a WSR lease unless:

(1) The required consents have not been obtained from the parties to the lease;

(2) The requirements of this subpart have not been met; or

(3) We find a compelling reason to withhold our approval in order to protect the best interests of the Indian landowners.

(b) We will defer, to the maximum extent possible, to the Indian land-

25 CFR Ch. I (4–1–13 Edition)

owners' determination that the WSR lease is in their best interest.

(c) We may not unreasonably withhold approval of a WSR lease.

§ 162.567 When will a WSR lease be effective?

(a) A WSR lease will be effective on the date that we approve the lease, even if an appeal is filed under part 2 of this chapter.

(b) The lease may specify a date on which the obligations between the parties to the lease are triggered. Such date may be before or after the approval date under paragraph (a) of this section.

§ 162.568 Must a WSR lease document be recorded?

(a) Any WSR lease document must be recorded in the LTRO with jurisdiction over the leased land.

(1) We will record the lease document immediately following our approval.

(2) If our approval of an assignment or sublease is not required, the parties must record the assignment or sublease in the LTRO with jurisdiction over the leased land.

(b) The tribe must record lease documents for the following types of leases in the LTRO with jurisdiction over the tribal lands, even though BIA approval is not required:

(1) Leases of tribal land that a corporate entity leases to a third party under 25 U.S.C. 477; and

(2) Leases of tribal land under a special act of Congress authorizing leases without our approval.

§ 162.569 Will BIA require an appeal bond for an appeal of a decision on a WSR lease document?

(a) If a party appeals our decision on a WSR lease, assignment, amendment, or sublease, then the official to whom the appeal is made may require the appellant to post an appeal bond in accordance with part 2 of this chapter. We will not require an appeal bond:

(1) For an appeal of a decision on a leasehold mortgage; or

(2) If the tribe is a party to the appeal and requests a waiver of the appeal bond.

(b) The appellant may not appeal the appeal bond decision. The appellant